

### **REMARKS**

Applicant requests reconsideration and allowance in view of the foregoing remarks. Claims 1-4, 6-12, 14, 15, and 30-51 are pending, with claims 1 and 44 being independent. Claims 1, 6, 7, and 9-12 have been amended, claims 5, 13, and 16-29 have been cancelled, and claims 30-51 have been added. Support for the new claims is found at, for example, page 3, lines 15-22 and page 7, lines 17-23. No new matter has been added.

### **Oath/Declaration**

The Office Action indicated that the declaration was defective because it does not identify the citizenship of each inventor. An updated declaration has been filed obviate this rejection.

### **§ 112 Rejection**

Claims 7, 10, 23, and 26 stand rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter that applicants regard as their invention. Claim 7 has been amended to obviate this rejection, claim 10 is believed to be allowable by virtual of the amendment to claim 7, and claims 23 and 26 have been cancelled. Reconsideration and withdrawal of this rejection is respectfully requested.

### **Paul Rejection**

Claims 1-5, 13-21, and 29 stand rejected under 35 U.S.C. § 102(a) as being anticipated by Paul (U.S. Patent No. 6,052,709). Alternatively, those claims stand rejected under 35 U.S.C. § 103 as being obvious over Paul. The rejection of these claims is obviated by virtue of the amendment to claim 1.

As amended, independent claim 1 recites a method of identifying unwanted messages. A payload portion of a message being communicated is inspected and characteristics of the payload portion are identified. The characteristics of the inspected payload portion of the message are compared with stored data indicating characteristics of at least one other message that has been

inspected. Based on comparison results, a security condition is identified from among at least one of acceptable, unacceptable, and indeterminate states, and the message is processed based on the security condition. In particular, the message is rejected if the security condition associated with the message reflects an unacceptable state and the message is accepted if the security condition associated with the message reflects an acceptable state. If the security condition associated with the message reflects an indeterminate state, the message is monitored. Specifically, a location of the message is tracked and at least one other message is inspected subsequent to the processing of the message. The stored data is updated to indicate characteristics of the at least one other message that has been inspected and the security condition of the message is recategorized based on the updated stored data. Based on the security condition, the message is reprocessed.

Applicants respectfully request reconsideration and withdrawal of this rejection because Paul fails to disclose or suggest at least recategorizing the security condition of the message based on the updated stored data.

Specifically, Paul relates to controlling delivery of unsolicited messages using "spam probe" e-mail addresses. [Abstract]. If the "spam probe" e-mail address receives an e-mail message, Paul's system identifies the message as spam and extracts data from the message for use in a filtering process. [Col. 5, lines 56-62]. In particular, when Paul's system receives an incoming e-mail, the system uses an exclusion list created from the extracted data to filter the incoming e-mail and take action based on the result of filtering. [Col. 6, lines 26-57]. Paul's system however, does not recategorize the security condition of a message based on updated stored data. Rather, Paul's system merely performs a single filtering process on an incoming e-mail message and does not perform any action on the e-mail message subsequent to the single filtering process.

For at least this reason, Applicants respectfully request reconsideration and withdrawal of the § 102(e) rejection of amended independent claim 1. Dependent claims 2-4, 6-12, and 30-43 are believed to be allowable by virtual of their dependence from claim 1.

Similar to recategorizing the security condition of the message based on the updated stored data as recited in amended independent claim 1, newly-added independent claim 44 recites, among other features, subsequently attempting to determine the definitive classification for the tracked message if the set of rules has been updated. For reasons similar to those discussed above with respect to independent claim 1, Paul fails to disclose or suggest at least attempting to determine the definitive classification for the tracked message when the set of rules has been updated. Accordingly, for at least these reasons, Applicant submits that independent claim 44 and its dependent claims are in condition for allowance.

### **§ 103 Rejections**

Claims 6-12 and 22-28 stand rejected under 35 U.S.C. § 103 as being obvious over Paul in view of Cotten (U.S. Patent No. 6,330,590) or Hiroshi (Japanese Patent Publication Number 2000-163341).

Cotten relates to a method of preventing the delivery of unwanted bulk e-mail that uses a single detection process that compares a signature code of a message with bulk mailing signature codes and Hiroshi relates to automatically deleting e-mail messages based on automatic deletion setting information. Nothing in Cotten and Hiroshi, however, discloses or suggests recategorizing the security condition of the message based on the updated stored data, as recited in amended independent claim 1, or subsequently attempting to determine a definitive classification for the tracked message if the set of rules has been updated, as recited in independent claim 44.

Accordingly, Applicant respectfully requests reconsideration and withdrawal of these rejections because Paul at least fails to disclose or suggest the features of amended independent claim 1, and, assuming the references could be combined (which they could not), neither Cotten nor Hiroshi remedy the deficiencies of Paul discussed above.

It is believed that all of the pending claims have been addressed. However, the absence of a reply to a specific rejection, issue, or comment, including the Office Action's characterizations of the art, does not signify agreement with or concession of that rejection,

Applicant : Lorin Sutton et al.  
Serial No. : 10/059,147  
Filed : January 31, 2002  
Page : 13 of 13

Attorney's Docket No.: 06975-211001 / Network 09

issue, or comment. In addition, because the arguments made above may not be exhaustive, there may be reasons for patentability of any or all pending claims (or other claims) that have not been expressed. Finally, nothing in this paper should be construed as an intent to concede any issue with regard to any claim, except as specifically stated in this paper, and the amendment or cancellation of any claim does not necessarily signify concession of unpatentability of the claim prior to its amendment or cancellation. Applicant reserves the right to prosecute the rejected claims in further prosecution of this or related applications. Applicants submit that all claims are in condition for allowance.

Enclosed is a \$450 check for Extension of Time fees. Please apply any other charges or credits to deposit account 06-1050.

Respectfully submitted,

Date: \_\_\_\_\_

2/7/2006



\_\_\_\_\_  
Thomas A. Rozyłowicz  
Reg. No. 50,620

Fish & Richardson P.C.  
1425 K Street, N.W.  
11th Floor  
Washington, DC 20005-3500  
Telephone: (202) 783-5070  
Facsimile: (202) 783-2331